

SECOND DIVISION

[G.R. No. 128345, May 18, 1999]

**PHILIPPINE NATIONAL CONSTRUCTION CORPORATION,
PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION,
ROLANDO S. ANGELES AND RICARDO P. PABLO, JR.,
RESPONDENTS.**

D E C I S I O N

PUNO, J.:

This is a special civil action for *certiorari* to annul the Decision of the National Labor Relations Commission (NLRC) dated July 31, 1996^[1] and its Resolution dated November 4, 1996^[2] in NLRC Case No. RAB III-06-5735-94. The NLRC granted separation pay to the private respondents inspite of its finding that they were validly dismissed for committing bribery.

Private respondents Rolando S. Angeles and Ricardo P. Pablo, Jr. were employed by petitioner corporation as tollway guards. They were posted at the North Luzon Tollway, Sta. Rita, Guiguinto, Bulacan interchange. Their services, however, were terminated effective close of office hours of June 15, 1994 on the ground of serious misconduct.

The circumstances leading to the termination of private respondents' employment are as follows:

On September 8, 1993, Rosario C. Maravilla complained to the Tollway General Manager, Mr. Ibarra G. Paulino, about the "mulcting activities" of some security personnel at the North Luzon Tollway. Acting on the complaint, Mr. Paulino formed an investigating team composed of Rolando Hidalgo, Vicente del Rosario, Salvador Bautista and Luisito Alvarez.

On September 11, 1993, the investigating team staged an entrapment. They marked one P500.00 bill and two P100.00 bills with an asterisk and recorded their serial number. They handed the marked money to Maravilla with instruction to give it to whoever demands money from her. Thus, the team, together with Maravilla, boarded the latter's passenger jeepney driven by Eustaquio Paa. The jeepney was then carrying a cargo of dogs destined for Baguio City.

Before reaching the Plaza Santa Entry, the jeepney was stopped by Angeles who was on duty at that time. He allegedly suspected them of illegally transporting dogs. Angeles approached the driver, asked for his driver's license and told him to park at the shoulder of the road. After the jeepney had parked, the driver alighted and talked to the guards on duty, Angeles and Pablo Maravilla also got off the vehicle to talk to them.

The members of the investigating team saw private respondents accept cash and a sack containing a dog from Maravilla, after which they allowed the jeepney to leave.

As private respondents walked toward the toll plaza, they were accosted by the members of the investigating team headed by Hidalgo. Surprised, Angeles dropped the bills he was holding. Upon verification, Hidalgo found that these were the same bills they had previously marked. The team also confiscated the dog from Pablo. They were brought to the Sta. Rita Field Office for initial investigation.

On April 25, 1994, Mr. Ibarra issued a Notice of Dismissal to private respondents requiring them to answer the charge of serious misconduct. After private respondents filed their respective answers, a formal investigation was held. Hidalgo, del Rosario and Bautista testified against private respondents.

After the formal investigation, the investigating officer submitted his findings to Mr. Ibarra and recommended the dismissal of private respondents. Adopting the findings and recommendation of the investigating officer, Mr. Ibarra issued a Notice of Termination to private respondents informing them that their employment shall cease effective close of office hours of June 15, 1994.

On June 17, 1994, private respondents filed a complaint for illegal dismissal against petitioner. They alleged that they were dismissed without just or authorized cause and without due process. They claimed that the entrapment staged on September 11, 1993 was mastermind by Hidalgo, former manager of the North Luzon Tollway, in retaliation, as they have been very critical of his administration. The complaint prayed for reinstatement plus payment of backwages and mid-year bonus for the year 1994.

The Labor Arbiter ruled that private respondents' dismissal was illegal. He held that petitioner failed to prove by clear and convincing evidence that private respondents committed serious misconduct. However, instead of ordering their reinstatement, the Labor Arbiter ordered the payment of separation pay because of strained relations. He also ordered petitioner to pay private respondents their backwages and mid-year bonus. The dispositive portion of the decision reads:

"WHEREFORE, premises considered, judgment is hereby entered in favor of the complainants and against the respondent, ordering the latter, as follows:

"1. To pay the sum of P7,185.00 representing the midyear bonus of complainants for the year 1994;

"2. To pay the sum total of P215,550.00 as backwages of the complainants from June 15, 1994 up to this writing; and

"3. To pay the sum total of P206,542.00 representing the separation pay of both complainants from the date of their employment up to this writing.

"So Ordered."^[3]

On appeal, the NLRC modified the decision of the Labor Arbiter. It held that private respondents' act of receiving a sum of money and a dog from motorists constituted bribery which was a sufficient ground for their dismissal. The NLRC nonetheless ordered petitioner to pay private respondents their separation pay on the ground of equity. It also retained the award of private respondents' mid-year bonus for 1994. The dispositive portion of the decision states:

"WHEREFORE, premises considered, the appealed decision is hereby MODIFIED, to read as follows:

"1. Declaring the dismissal of complainants to be legal as falling under the provision of Article 282 of the Labor Code, as amended;

"2. Ordering respondent Philippine National Construction Corporation (PNCC) to pay complainants Rolando Angeles and Ricardo Pablo their separation pay in the amount of P70,609.00 and P143,118.00, respectively;

"3. Ordering respondent PNCC to pay complainants Rolando Angeles and Ricardo Pablo their mid-year bonus in the amount of P3,209.50 and P3,975.50, respectively.

"All other claims of both parties are DIMISSED for lack of merit.

"So ordered."^[4]

Petitioner filed a motion for reconsideration but it was denied by the NLRC for lack of merit.^[5]

On March 13, 1997, petitioner filed the petition at bar raising the sole assignment of error:

"Public respondent, through its Second Division, committed grave abuse of discretion amounting to lack of jurisdiction in ordering petitioner to pay private respondents their separation pay and mid-year bonus notwithstanding its finding that private respondents committed grave and serious misconduct."^[6]

On June 18, 1997, we required the respondents to comment on the petition.^[7]

Private respondents filed their comment on September 2, 1997. They raised the following arguments.

"1. The National Labor Relations Commission erred in not finding the Philippine National Construction Corporation guilty of estoppel and laches when the herein private respondents (complainants in the Labor Arbiter) were required to answer the charges against them only on April 25, 1994 while the act complained of occurred on September 11, 1993;

"2. Even assuming without admitting that the modification by the Honorable NLRC was correct, yet the assailed decision of said court has become final and executory as this instant petition was unreasonably and